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BOURBON INGREDIENTS: 51% CORN, AGED IN NEW CHARRED OAK BARRELS, AND GMOs?

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BY: CAROLINE K. MITCHELL

Most bourbon drinkers (especially Kentuckians) know the basic ingredients that make the bourbon we all know and love. However, the industry may not be advertising one major ingredient, genetically modified organisms (GMOs).[i]

Genetically modified products are plants or other organisms whose genetic makeup is modified using genetic engineering or transgenic technology.[ii] As our food, beverage, and agriculture markets expand, it is becoming extremely difficult to find products that do not contain genetically modified ingredients.[iii] Research on the adverse effects GMOs have on human health and the environment is limited.[iv] Recent studies conducted on rats have not found any adverse effects on the health of the rat or the offspring. [v] However, the tests conducted on animals have not been conducted on humans.[vi] This would require decades of monitoring and research, and it follows that the effects on human health are still unknown.[vii] Due to the uncertainty with these altered products, the demand for organic and non-GMO products has increased. One of the nation's largest natural food retailers reported that between 2010 and 2014, the demand for non-GMO products increased by 426%.[viii] Other sources have reported an increase in sales on food labeled non-GMO from \$12.9 billion in 2012 to \$21.2 billion in 2016.[ix] Consumers want to purchase products that, in their opinion, are healthier and free of harmful additives. Consequently, bourbon free of genetically modified ingredients is a product in high demand.[x]

Bourbon is made up of 51% corn, and since 2017, the demand for bourbon has increased by 8.1%. [xi] In order to keep up with demand, corn has to be produced at a much faster rate.[xii] Bourbon distilleries such as Woodford Reserve that originally only used non genetically modified corn, have made a switch to genetically modified corn. Without this switch, not enough quality product could be produced within a reasonable distance from the distillery.[xiii] It is not practical for these distilleries to continue mass-producing bourbon, especially when genetically modified crops have increased the agricultural yield by 22%.[xiv] Naturally, many distilleries have chosen to abandon using non genetically modified crops.

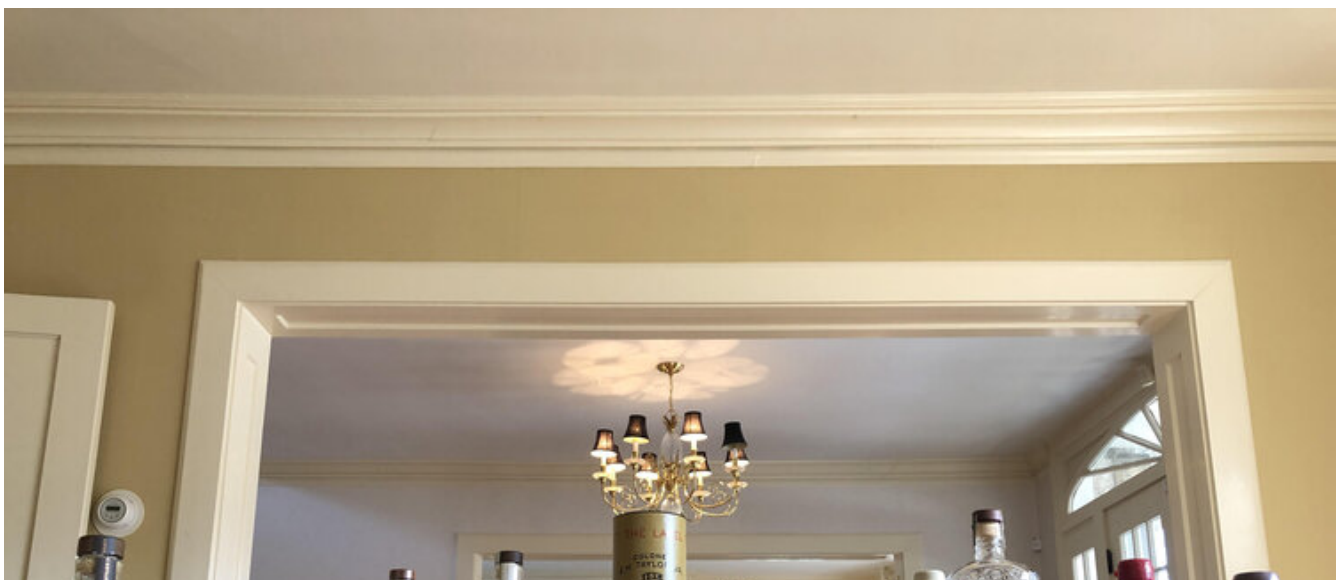




Photo Credit: Caroline K. Mitchell

Although many bourbon distilleries have started using genetically modified corn, a few household brands, including Buffalo Trace and Wild Turkey, have remained committed to using non genetically modified products. One would think that advertising non GMO products would be a big draw for the public; however, liquor producers are not allowed to advertise this on the product label. [xv] The Alcohol and Tobacco Tax and Trade bureau ruled that it is misleading to use any language referring to genetically engineered on the bottle label.[xvi] Distilleries have found their way around this rule by announcing that their products are free of genetically modified crops in various advertisements.[xvii] Consumers should have the right to know whether the product they are planning to purchase contains genetically modified ingredients and should be able to find the information right on the bottle without having to stumble upon a television or internet advertisement.

Several states proposed regulations on labeling genetically modified products.[xviii] For example, Vermont imposed strict labeling requirements on food companies, including labeling products made from genetically modified ingredients.[xix] The proposed Safe and Accurate Food Labeling Act of 2015 would have created standards for labeling requirements for genetically engineered foods.[xx] The language would require consumer products, such as food and beverages, to have a label specifying the use of genetically modified products was not included.[xxi] In November 2015, the Food and Drug Administration stated that it was not adopting any specific label requirements for genetically modified products. On December 21, 2018, The United States Department of Agriculture's (USDA) Agriculture Marketing Service (AMS) published a final rule for the National Bioengineered Food Disclosure Standard.[xxii] Although this is supposed to be for the benefit of the consumer, there are many exceptions to the labeling requirement, and only products subject to the Federal Food, Drug, and Cosmetic Act, Federal Meat Inspection Act, Poultry Products Inspection Act, and Egg Products Inspection Act are subject to this limited disclosure.[xxiii]

As we continue to research the effects on the consumption of genetically modified products, consumers will remain cautious of products that are not labeled or advertised as being made with non-genetically modified ingredients. Distilleries like Buffalo Trace will continue to be a best seller not only because of the quality of the bourbon, but the peace of mind the consumer receives knowing they are getting a quality product without interference from genetically modified crops.

[i] Twilight Greenaway, *Bourbon of proof: Is Kentucky's heritage spirit compromised by GMO corn?* Grist (Jan. 6, 2012), <https://grist.org/corn/2012-01-06-bourbon-of-proof-will-kentuckys-heritage-be-compromised-gmo-corn/> [<https://perma.cc/EYF4-6LZE>].

[ii] What is a GMO? <https://www.nongmoproject.org/gmo-facts/what-is-gmo/> (last visited Nov. 15, 2019) [<https://perma.cc/S8C2-WSHD>].

[iii] *Id.*

[iv] Jessica Else and Dr. Peter Goldsbrough, *Do GMOs harm health?* Youtube (Sep. 12, 2016), https://www.youtube.com/watch?time_continue=4&v=XKvTAG38SfM&feature=emb_logo [<https://perma.cc/9ST5-FWWR>].

[v] Megan L. Norris, *Will GMOs Hurt My Body? The Public's Concerns and How Scientists Have Addressed Them*, SITN, (Aug. 10, 2015), <http://sitn.hms.harvard.edu/flash/2015/will-gmos-hurt-my-body/> [<https://perma.cc/ET56-C2Q4>].

[vi] *Id.*

[vii] Jane E. Brody, *Are G.M.O. Foods Safe?* *N.Y. Times* (April 23, 2018), <https://www.nytimes.com/2018/04/23/well/eat/are-gmo-foods-safe.html> [<https://perma.cc/ET56-C2Q4>].

[viii] Kali Hawlk, *Why is Non-GMO Demand Growing*, Glenmede (July 3, 2018), <https://www.impactinvestingexchange.com/why-is-non-gmo-demand-growing/> [<https://perma.cc/NZ4R-Y8VU>].

[ix] Hadley Malcolm, *Non-GMO demand growing despite report that says GMOs are safe*, USA Today, (May 18, 2016 4:30 PM), <https://www.usatoday.com/story/money/2016/05/18/gmo-report-not-likely-to-change-minds-over-gmo-concern/84501686/> [<https://perma.cc/9AXK-Q3LG>].

[x] See Hawlk, *supra* note 8.

[xi] Kellie Ell, *Bourbon is winning in millennial 'cocktail culture', says distillery president*, CNBC (July 15, 2018 9:48 PM), <https://www.cnbc.com/2018/07/13/whiskey-sales-in-us-are-up-bourbon-more-popular-among-millennials.html> [<https://perma.cc/4KPJ-56SJ>].

[xii] Wayne Curtis, *Bourbon Producers Consider the Pros and Cons of Non-GMO Corn*, SevenFifty Daily (Sept. 28, 2017), <https://daily.sevenfifty.com/bourbon-producers-consider-the-pros-and-cons-of-non-gmo-corn/> [<https://perma.cc/DUD6-X7YJ>].

[xiii] *Id.*

[xiv] Daniel Norero, *GMO crops have been increasing yield for 20 years, with more progress ahead*, Alliance For Science (Feb. 23, 2018), <https://allianceforscience.cornell.edu/blog/2018/02/gmo-crops-increasing-yield-20-years-progress-ahead/> [<https://perma.cc/K6Y2-ZCMR>].

[xv] Wayne Curtis, *Bourbon Producers Consider the Pros and Cons of Non-GMO Corn*, SevenFifty Daily (Sept. 28, 2017), <https://daily.sevenfifty.com/bourbon-producers-consider-the-pros-and-cons-of-non-gmo-corn/> [<https://perma.cc/DUD6-X7YJ>].

[xvi] *Id.*

[xvii] *Id.*

[xviii] Lindsay Wise, *Divisive GMO labeling bill passes House, heads to Senate*, Herald Leader (July 23, 2015 4:07 PM), <https://www.kentucky.com/news/politics-government/article44611668.html> [Perma CC link].

[xix] Phil Lempert, *Sorry Food Industry, The Historic GMO Food Labeling Bill Is Anything But*, Forbes (Aug. 1, 2016), <https://www.forbes.com/sites/phillemper/2016/08/01/sorry-food-industry-the-historic-gmo-food-labeling-bill-is-anything-but/#7c2ae7fc6926> [<https://perma.cc/9YZS-J5BF>].

[xx] H.R. 1599, 144th Cong. (2015).

[xxi] See Wise, *supra* note 18.

[xxii] Establishment of National Bioengineering Food Disclosure Standard, 7 U.S.C.A. § 1639b (2016).

[xxiii] *Id.*

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I love Bourbon and I never thought about the GMO's it may contained or be part of it. Is there any brand of Bourbon that has non GMO?

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